

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

EYVETTE TALLEY,

Plaintiff,

v.

DRESSEN, et al.,

Defendant.

Case No.: 2:23-cv-2140-CDS-EJY

Order

On November 9, 2024, the Court issued a Screening Order deferring the ruling on Plaintiff's application to proceed *in forma pauperis* ("IFP"), permitting one claim to proceed, dismissing some claims with leave to amend, and dismissing some claims with prejudice. ECF No. 9. The Court gave Plaintiff until December 5, 2024 to file an amended complaint. *Id.* at 11. The Court specifically stated that if Plaintiff chooses not to file an amended complaint, the action will proceed against Defendant Gates only on the Eighth Amendment cruel and unusual punishment claim based on sexual assault or abuse. *Id.* at 12. On December 11, 2024, the Court granted Plaintiff an extension of time until January 17, 2025 to file her amended complaint. ECF No. 13. Plaintiff has not filed an amended complaint, thus this action will proceed against Defendant Gates.

For the foregoing reasons, IT IS HEREBY ORDERED that this action will proceed against Defendant Gates on the Eighth Amendment cruel and unusual punishment claim based on sexual assault or abuse.

IT IS FURTHER ORDERED that given the nature of the claim(s) that the Court has permitted to proceed, this action is stayed for 90 days to allow Plaintiff and Defendant an opportunity to settle their dispute before the Court will determine whether to grant Plaintiff's IFP application, the \$350 filing fee is paid, an answer is filed, or the discovery process begins. During this 90-day stay period and until the Court lifts the stay, no other pleadings or papers may be filed in this case, and the parties will not engage in any discovery, nor are the parties required to respond to any paper filed in violation of the stay unless specifically ordered by the Court to do so. The

1 Court will refer this case to the Court's Inmate Early Mediation Program, and the Court will enter
2 a subsequent order. Regardless, on or before 90 days from the date this Order is entered, the Office
3 of the Attorney General must file the report form attached to this Order regarding the results of the
4 90-day stay, even if a stipulation for dismissal is entered prior to the end of the 90-day stay. If the
5 parties proceed with this action, the Court will then issue an order setting a date for Defendant to
6 file an answer or other response. Following the filing of an answer, the Court will issue a
7 scheduling order setting discovery and dispositive motion deadlines.

8 IT IS FURTHER ORDERED that "settlement" may or may not include payment of money
9 damages. It also may or may not include an agreement to resolve Plaintiff's issues differently. A
10 compromise agreement is one in which neither party is completely satisfied with the result, but
11 both have given something up and both have obtained something in return.

12 IT IS FURTHER ORDERED that if the case does not settle, then the Court will determine
13 whether to grant Plaintiff's IFP application. Plaintiff will be required to pay the full \$350.00
14 statutory filing fee for a civil action regardless of whether the Court grants her IFP application.
15 This fee cannot be waived, and the fee cannot be refunded once the Court enters an order granting
16 Plaintiff's IFP application. If Plaintiff is allowed to proceed IFP, the fee will be paid in
17 installments from her prison trust account. *See* 28 U.S.C. § 1915(b). If Plaintiff is not allowed to
18 proceed IFP, the full \$350 statutory filing fee for a civil action plus the \$55 administrative filing
19 fee, for a total of \$405, will be due immediately.

20 IT IS FURTHER ORDERED that if any party seeks to have this case excluded from the
21 inmate mediation program, that party will file a "motion to exclude case from mediation" no later
22 than 21 days prior to the date set for mediation. The responding party will have 7 days to file a
23 response. No reply will be filed. Thereafter, the Court will issue an order, set the matter for
24 hearing, or both.

25 IT IS FURTHER ORDERED that if Plaintiff needs an interpreter to participate in the
26 mediation program, Plaintiff will file a notice identifying the interpretation language and the need
27 for the interpreter within 30 days from the date of this order.

1 IT IS FURTHER ORDERED that the Clerk of Court will add the Nevada Department of
2 Corrections to the docket as an Interested Party and electronically serve a copy of this Order, the
3 Screening Order (ECF No. 9), and Plaintiff's Complaint (ECF No. 1) on the Office of the Attorney
4 General of the State of Nevada by adding the Attorney General of the State of Nevada to the
5 docket. This does not indicate acceptance of service.

6 IT IS FURTHER ORDERED that the Attorney General's Office must advise the Court
7 within 21 days of the date of the entry of this Order whether it will enter a limited notice of
8 appearance on behalf of Defendant for the purpose of participation in the Early Mediation
9 Program. No defenses or objections, including lack of service, will be waived as a result of the
10 filing of the limited notice of appearance.

11 DATED this 5th day of February, 2025.

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14 ELAYNA J. YOUCHAH
15 UNITED STATES MAGISTRATE JUDGE
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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

EYVETTE TALLEY,

Plaintiff

v.

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Defendants

Case No. 2:23-cv-2140-CDS-EJY

REPORT OF ATTORNEY GENERAL RE:
RESULTS OF 90-DAY STAY

NOTE: ONLY THE OFFICE OF THE ATTORNEY GENERAL WILL FILE THIS FORM. THE INMATE PLAINTIFF WILL NOT FILE THIS FORM.

On _____ [the date of the issuance of the screening order], the Court issued its screening order stating that it had conducted its screening pursuant to 28 U.S.C. § 1915A, and that certain specified claims in this case would proceed. The Court ordered the Office of the Attorney General of the State of Nevada to file a report ninety (90) days after the date of the entry of the Court's screening order to indicate the status of the case at the end of the 90-day stay. By filing this form, the Office of the Attorney General hereby complies.

REPORT FORM

[Identify which of the following two situations (identified in bold type) describes the case, and follow the instructions corresponding to the proper statement.]

Situation One: Mediated Case: The case was assigned to mediation by a court-appointed mediator during the 90-day stay. [If this statement is accurate, check **ONE** of the six statements below and fill in any additional information as required, then proceed to the signature block.]

_____ A mediation session with a court-appointed mediator was held on _____ [enter date], and as of this date, the parties have reached a settlement (even if paperwork to memorialize the settlement remains to be completed). (If this box is checked, the parties are on notice that they must **SEPARATELY** file either a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in the case until a specified date upon which they will file a stipulation of dismissal.)

_____ A mediation session with a court-appointed mediator was held on _____ [enter date], and as of this date, the parties have not reached a settlement. The Office of the Attorney General therefore informs the Court of its intent to proceed with this action.

_____ No mediation session with a court-appointed mediator was held during the 90-day stay, but the parties have nevertheless settled the case. (If this box is checked, the parties are on notice that they must **SEPARATELY** file a contemporaneous stipulation of dismissal or a motion requesting that the Court continue the stay in this case until a specified date upon which they will file a stipulation of dismissal.)

1 _____ No mediation session with a court-appointed mediator was held during the 90-day
2 stay, but one is currently scheduled for _____ [enter date].

3 _____ No mediation session with a court-appointed mediator was held during the 90-day
4 stay, and as of this date, no date certain has been scheduled for such a session.

5 _____ None of the above five statements describes the status of this case.
6 Contemporaneously with the filing of this report, the Office of the Attorney
7 General of the State of Nevada is filing a separate document detailing the status of
8 this case.

9 **Situation Two: Informal Settlement Discussions Case:** The case was NOT assigned to
10 mediation with a court-appointed mediator during the 90-day stay; rather, the parties were
11 encouraged to engage in informal settlement negotiations. [If this statement is accurate, check
12 **ONE** of the four statements below and fill in any additional information as required, then
13 proceed to the signature block.]

14 _____ The parties engaged in settlement discussions and as of this date, the parties have
15 reached a settlement (*even if the paperwork to memorialize the settlement remains*
16 *to be completed*). (*If this box is checked, the parties are on notice that they must*
17 *SEPARATELY file either a contemporaneous stipulation of dismissal or a motion*
18 *requesting that the Court continue the stay in this case until a specified date upon*
19 *which they will file a stipulation of dismissal.*)

20 _____ The parties engaged in settlement discussions and as of this date, the parties have
21 not reached a settlement. The Office of the Attorney General therefore informs
22 the Court of its intent to proceed with this action.

23 _____ The parties have not engaged in settlement discussions and as of this date, the
24 parties have not reached a settlement. The Office of the Attorney General
25 therefore informs the Court of its intent to proceed with this action.

26 _____ None of the above three statements fully describes the status of this case.
27 Contemporaneously with the filing of this report, the Office of the Attorney
28 General of the State of Nevada is filing a separate document detailing the status of
this case.

Submitted this _____ day of _____, _____ by:

Attorney Name: _____
Print

Signature

Address: _____

Phone: _____

Email: _____